

REMARKS

State of the Claims

Claims 27-35 are pending. The Examiner states that Claims 33 and 34 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants have amended Claim 27 to include the allowable subject matter of now-canceled Claim 33. No new matter has been added.

Objections to the Drawings

The drawings stand objected to under 37 CFR § 1.83(a). The Examiner states that the "projection comprising a plurality of projections" must be shown or the feature(s) canceled from the claim(s).

Applicants point out that they do not claim "the projection comprising a plurality of projections" in any of their Claims 27-35. Therefore, Applicants believe that the Examiner's objection is obviated and should be rescinded. Also, Applicants note that the Examiner has not indicated which if any of Applicants' claims claim a plurality of projections as stated by the Examiner.

Applicants therefore request reconsideration of their drawings and that the Examiner rescinds the objection to the drawings.

35 U.S.C. § 112 Rejections

Claim 35 stands rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as their invention.

Specifically, the Examiner states that the structure of container and lid is not clearly set forth in Claim 35. The Examiner questions how the lid is attached to the container "such as to initially directed [sic] a lifting force to at least one of the corner portions?"

In answer to the Examiner's query, proper distribution of the lifting force can be accomplished by a projection which substantially covers a lifting area defined by two imaginary lines that extend from an outer tangential point at each of the two adjacent corner portions to a lifting point which is used to grip the membrane lid for application of the lifting force.¹ This fact is well documented by Applicants' specification.

¹ Applicants' Specification, page 7, lines 30-33 to page 8, lines 1.

Therefore, Applicants respectfully request reconsideration and allowance of Applicants' Claim 35 over the Examiner's 35 U.S.C. § 112, second paragraph, rejection.

35 U.S.C. § 103 Rejections

Claims 27, 31 and 32 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ramirez, et al. (U.S. Patent No. 5,943,472--and hereinafter Ramirez '472) in view of Sasaki (JP 09043398--hereinafter Sasaki '398).

The Examiner states that Ramirez '472 teaches a container comprising a lip having side structures that are different than the corner portions of the lip and then points to Figure 6 of Ramirez '472 as proof of the aforementioned statement. The Examiner asserts that "[t]o the degree set forth in the claim, the corner portions and side portions are adapted to exhibit uniform reaction to pressure when apply [sic] a membrane lid to the lip." The Examiner further asserts that Sasaki '398 teaches that is known to provide a container of different shapes including square and triangular.

Applicants point out that Claim 27 has been amended to include the allowable subject matter of now-canceled Claim 33. In the rejection noted above, the subject matter of now-canceled Claim 33 is not included. Therefore, Applicants believe that the Examiner's rejection is obviated and therefore respectfully request reconsideration and allowance of Claims 27, 31 and 32 over the Examiner's 35 U.S.C. § 103(a) rejection.

Claim 30 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over the prior art (namely, Ramirez '472 in view of Sasaki '398) as applied to Claim 27 and further in view of Edgar (U.S. Patent No. 203,328).

The Examiner states that Edgar teaches that it is known to provide a container lip with an outwardly protruding W-shaped outer wall surface. The Examiner further states that although Edgar '328 discloses a sheet metal pan, the strengthening configuration of the lip is applicable to plastic containers as well so as to not increase the overall thickness of the lip. The Examiner concludes by stating that it would have been obvious to one of ordinary skill in the art at the time that the invention was made to further modify the container of Ramirez '472 by applying the teaching of an outwardly protruding W-shaped outer wall surface. "Doing so increases the strength of the lip."

Claim 30 depends upon currently amended Claim 27 which now includes the allowable subject matter of now-canceled Claim 33. Applicants therefore believe that Claim 30 is now

allowable over the Examiner's rejection and requests reconsideration and allowance thereof over the Examiner's 35 U.S.C. § 103(a) rejection.

Claim 35 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over the prior art as applied to Claim 27 and further in view of Nageli, et al. (U.S. Patent No. 5,353,985-- hereinafter Nageli '985).

The Examiner states that Nageli '985 teaches that it is known to provide a lid having a projection including a tab for initially directing a lifting force to at least one of the corner portions. The Examiner concludes that it would have been obvious to one of ordinary skill in the art at the time that the invention was made to further modify the container of Ramirez '472 by applying the teaching of a lid having a projection including a tab for initially directing a lifting force to at least one of the corner portions. "Doing so reduces the amount of material used to produce a sealed container and allows for ease of opening."

Applicants point out that Claim 35 depends upon currently amended Claim 1 which has been modified to include the allowable subject matter of now-canceled Claim 33. Therefore, Applicants believe that the Examiner's rejection is now obviated. Applicants request reconsideration and allowance of Claim 35 over the Examiner's 35 U.S.C. § 103(a) rejection.

Claims 28 and 29 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the prior art as applied to Claim 27 and further in view of Letica (U.S. Patent No. 4,349,119-- hereinafter Letica '119).

The Examiner states that Letica '119 that it is known to provide a container lip having a flat outwardly facing surface (fig. 5) or a U-shaped outwardly facing surface (fig. 3). The Examiner concludes that it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the container of Ramirez '472 by applying the teaching of U-shaped outwardly facing surfaces of the lip as an obvious matter of design choice since such a modification would have involved a mere change in the shape of a component. "A change in shape is generally recognized as being within the level of ordinary skill in the art."

Applicants point out that Claim 28 and 29 depend upon currently amended Claim 1 which has been modified to include the allowable subject matter of now-canceled Claim 33. Therefore, Applicants believe that the Examiner's rejection is now obviated. Applicants request reconsideration and allowance of Claims 28 and 29 over the Examiner's 35 U.S.C. § 103(a) rejection.

SUMMARY

The rejection in the Office Action has been discussed and, Applicants believe, the proper amendments have been set forth to address the rejection.

In light of both the amendments and the discussions contained herein, Applicants respectfully request reconsideration of the rejection and its withdrawal.

Issuance of a Notice of Allowance at an early date is earnestly solicited.

Respectfully submitted,

GERARD LAURENT BLISSON, ET AL.

By: 

Theodore P. Cummings, Esq.
Attorney for Applicants
Registration No. 40,973
(513) 634-1906

May 12, 2004

Customer Number 27752